

**FILED**

**MAY 06 2008**

**IN THE UNITED STATES DISTRICT COURT FOR THE  
NORTHERN DISTRICT OF WEST VIRGINIA - MARTINSBURG DIVISION**

CARLA COBLE, STEPHANIE LAING, JOSEPH C.A. No.: 3:08cv80  
NOLAN, ERIC WOOMER, POPPY CHRISMAN,

Plaintiffs,

The Honorable Bailey

Electronic Filing

v.

RELIANT EQUITY INVESTORS, LLC, a foreign  
limited liability company, TANTUM, LLC, a  
foreign limited liability company, and the  
following as individuals: ROBERT PULCIANI,  
PHILIP WAX, CHRISTOPHER STEVENS, CARR  
PRESTON, QIAN ELMORE, THOMAS DARDEN,  
JR., LARRY MORGAN, CATHY JO VAN PELT,  
KIMBERLY MYERS, ED COLEMAN, MICHAEL  
LUTZ, RICHARD HERBERT, and LARRY MUZZY,

Defendants.

**NOTICE OF REMOVAL**

The defendants, Qian Elmore and Thomas Darden, Jr., by their attorneys Avrum Levicoff, Esquire and Levicoff, Silko & Deemer, give notice of the removal of the above captioned action from the Circuit Court of Berkeley County, West Virginia, at Civil Action No. 08-C-359, to the United States District Court for the Northern District of West Virginia, Martinsburg Division, pursuant to the provisions of 28 U.S.C. §1452. The grounds for removal are set forth hereinafter.

1. Plaintiffs allege to be former employees of AB&C Group, Inc., a corporation previously located and doing business in Berkeley County, West Virginia. A true and correct copy of the plaintiffs' Third Amended Complaint is attached hereto as Exhibit "A".

2. The defendants are former management and supervisory employees and/or officers and directors, or shareholders of AB&C Group, Inc., all of whom are alleged in the

Third Amended Complaint to be "statutory employers of the plaintiffs" within the meaning of the West Virginia Wage Payment and Collection Act, W.Va. Code 21-1-1 et seq.

3. The plaintiffs bring this action under the Wage Payment and Collection Act to recover wages, benefits and other remuneration of employment, that were allegedly due and payable on or about March 14, 2008, when, according to the Third Amended Complaint, AB&C Group, Inc. ceased operations.

4. On April 4, 2008 an involuntary petition was filed against AB&C Group, Inc. under the United States Bankruptcy Code in the United States Bankruptcy Court for the Northern District of West Virginia at Case No. 3:08-bk-00482. The bankruptcy case against AB&C Group, Inc. remains pending.

5. On April 21, 2008 AB&C Group, Inc. filed a motion in the bankruptcy case for authorization of the Court to pay unpaid wages, and related payroll taxes, which in whole or in part involves the same wages, fringe benefit fund contributions, and related remuneration which forms the subject matter of the instant action.

6. This Court has jurisdiction of the above action pursuant to 28 U.S.C. §1334(b)(1) in that this case is "related to" a bankruptcy case, to-wit, the AB&C Group, Inc. bankruptcy presently pending in the United States Bankruptcy Court for the Northern District of West Virginia at Case No.: 3:08-bk-00482.

7. The above captioned action is removable, pursuant to 28 U.S.C. §1452, in that the Court has jurisdiction of the action as a related case under 28 U.S.C. §1334(b)(1).

For the reasons above stated, the defendants Qian Elmore and Thomas Darden, Jr., give notice of the removal of this action from the Circuit Court of Berkeley County, West Virginia at

Civil Action No. 08-C-359 to the United States District Court for the Northern District of West Virginia, Martinsburg Division.

By: 

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*Counsel for the Defendants,  
Qian Elmore and  
Thomas Darden, Jr.*

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Defendants.

**CERTIFICATE OF SERVICE**

I hereby certify that I have served a true and correct copy of the foregoing NOTICE OF  
REMOVAL upon the following counsel via the CM/ECF system on May 5, 2008:

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Qian Elmore and Thomas Darden, Jr.*